IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Civil Application No.3648 of 2004
In
First Appeal No.1102 of 2004

Shri Shrikrishna R. Borawake. .. .. Applicant
(Orig.Deft.No.3)

v/s.

Tide Water Oil Company (India) Ltd.
& ors. .. .. .. Respondents
(Orig. Plaintiffs)

Mr.Neel Pungalia i/by Mr.Mohan Pugaliya for Applicant.

Mr.P.S. Dani for Respondents.

CORAM : SMT.ROSHAN DALVI, J.

Dated : 21st June, 2007

P.C. :

1. This Application is taken out for stay of the execution of the decree dated 17.7.2004 passed in Special Civil Suit No.88 of 1998. The application has been taken out in September 2004. It is pending since then. It challenges the money decree of Rs.3,43,334.93. Under the provisions of

Order 41 Rule 1(3) of the C.P.C., the Appellant is enjoined to deposit the decretal amount unless he shows a sufficient cause for non deposit. The stay of the execution cannot be granted simplicitor. Nevertheless, it has been granted since 18th October 2004. The application has remained pending since then. No amount is deposited. The ad-interim relief is liable to be vacated.

2. However, since the Appeal has been admitted, the only order in the interest of justice, which can be passed, is that the ad-interim relief shall stand vacated unless the entire decretal amount together with interest is deposited in the trial Court within two weeks from today.

3. Civil Application disposed of accordingly.

(ROSHAN DALVI, J.)